

Exhibit A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

BIKASH MOHAN MOHANTY, On Behalf of)
Himself and All Others Similarly Situated,)

Plaintiff,)

vs.)

BIGBAND NETWORKS, INC., AMIR)
BASSAN-ESKENAZI, RAN OZ, FREDERICK)
BALL, GAL ISRAELY, DEAN GILBERT,)
KEN GOLDMAN, LLOYD CARNEY, BRUCE)
SACHS, ROBERT SACHS, GEOFFREY)
YANG, MORGAN STANLEY & CO., INC.,)
MERRILL LYNCH, PIERCE, FENNER &)
SMITH, INC., JEFFERIES & CO., INC.,)
COWEN AND CO., INC., AND)
THINKEQUITY PARTNERS, LLC)

Defendants.)

Case No. 3:07-CV-05101-SBA

CLASS ACTION

GWYN JONES' SUR-REPLY TO THE
SPHERA FUND'S REPLY TO HIS
MOTION TO APPOINT LEAD
PLAINTIFF

DENNIS KOESTERER, On Behalf of Himself and
All Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR BASSAN-
ESKENAZI, FREDERICK A. BALL, RAN OZ,
LLOYD CARNEY, DEAN GILBERT, KEN
GOLDMAN, GAL ISRAELY, BRUCH SACHS,
ROBERT SACHS, and GEOFFREY YANG

Defendants.

Case No. 3:07-CV-05168-MMC

ABRENA WINSTON, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR
BASSAN-ESKENAZI, RAN OZ, FREDERICK
BALL, GAL ISRAELY, DEAN GILBERT, KEN
GOLDMAN, LLOYD CARNEY, BRUCE
SACHS, ROBERT SACHS, GEOFFREY
YANG, MERRILL LYNCH, PIERCE, FENNER
& SMITH, INC., MORGAN STANLEY & CO.,
INC., COWEN AND CO., JEFFERIES & CO.,
and THINKEQUITY PARTNERS, LLC

Defendants.

Case No. 3:07-CV-05327-MMC

DONALD SMITH, On Behalf of Himself and All
Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR
BASSAN-ESKENAZI, and FREDERICK A.
BALL

Defendants.

Case No. 3:07-CV-05361-SI

1 WAYNE LUZON, On Behalf of Himself and All
Others Similarly Situated,

2 Plaintiff,

3 v.

4 BIGBAND NETWORKS, INC., AMIR BASSAN-
5 ESKENAZI, RAN OZ, FREDERICK BALL, GAL
6 ISRAELY, DEAN GILBERT, KEN GOLDMAN,
LLOYD CARNEY, BRUCE SACHS, ROBERT
7 SACHS, GEOFFREY YANG, MORGAN
STANLEY & CO., INC., MERRILL LYNCH,
8 PIERCE, FENNER & SMITH, INC., JEFFERIES &
CO., INC., COWEN AND CO., INC., and
9 THINKEQUITY PARTNERS, LLC

10 Defendants.

Case No. 3:07-CV-05637-WHA

11 DEBRA L. BERNSTEIN, Individually and On
Behalf of All Others Similarly Situated,

12 Plaintiff,

13 v.

14 BIGBAND NETWORKS, INC., AMIR BASSAN-
15 ESKENAZI, RAN OZ, FREDERICK A. BALL,
GAL ISRAELY, DEAN GILBERT, KENNETH A.
16 GOLDMAN, LLOYD CARNEY, BRUCE I.
SACHS, ROBERT J. SACHS, GEOFFREY Y.
17 YANG, MORGAN STANLEY & CO.,
INCORPORATED, JEFFERIES & COMPANY,
18 INC., MERRILL LYNCH, PIERCE FENNER &
SMITH INCORPORATED, COWEN AND
19 COMPANY, LLC and THINKEQUITY
PARTNERS LLC,

20 Defendants.

Case No. 3:07-CV-05819-CRB

21 EUGENE HAMMER, On Behalf of Himself and
All Others Similarly Situated,

22 Plaintiff,

23 v.

24 BIGBAND NETWORKS, INC., AMIR BASSAN-
25 ESKENAZI, FREDERICK A. BALL, RAN OZ,
LLOYD CARNEY, DEAN GILBERT, KEN
26 GOLDMAN, GAL ISRAELY, BRUCE SACHS,
ROBERT SACHS, and GEOFFREY YANG

27 Defendants.
28

Case No. 3:07-CV-05825-SI

JAMES WILTJER, On Behalf of Himself and All
Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., et al.

Defendants.

Case No. 3:08-CV-00022-CRB

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1 For the first time in its reply papers, movant Sphera Fund argues that Gwyn Jones is barred
 2 from serving as Lead Plaintiff because he resides in a foreign country. Specifically, the Sphera
 3 Fund argues that Mr. Jones may be subject to a unique defense, claiming that the mere potential
 4 that Cypriot courts (where Mr. Jones is a resident) may not give res judicata effect to a judgment
 5 entered by this Court renders him inadequate. *See* Reply Memorandum of Law in Further Support
 6 of Motion of Sphera Fund for Appointment as Lead Plaintiff and Approval of Selection of Co-Lead
 7 Counsel, at 3 [Dkt. No. 39]. The Sphera Fund relies on *Borochoff v. Glaxosmithkline, PLC*, 246
 8 F.R.D. 201 (S.D.N.Y. 2007), and *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 219 F.R.D. 343 (D.
 9 Md. 2003). Both of these cases are easily distinguishable from the instant litigation.

10 Sphera Fund's argument fails for several reasons. First, Mr. Jones is a citizen of the United
 11 Kingdom. As noted in *Glaxosmithkline*, English courts are likely to give preclusive effect to
 12 judgment from a U.S. court. *Glaxosmithklein*, at 203-05 (appointing English foreign investor as
 13 Lead Plaintiff). Second, unlike the instant litigation, *Glaxosmithkline* and *Royal Ahold* involved
 14 foreign companies with foreign corporate headquarters. *Glaxosmithkline*, 246 F.R.D. at 202
 15 (headquartered in the United Kingdom), and *Royal Ahold*, 219 F.R.D. at 352 (headquartered in the
 16 Netherlands). In stark contrast, Bigband Networks, Inc. is incorporated in Delaware and maintains
 17 its corporate headquarters in Redwood City, California. Bigband's common stock is traded on an
 18 American stock exchange and the alleged false and misleading representations are alleged to have
 19 emanated from within the United States. Third, in the recent case, *Marsden v. Select Med. Corp.*,
 20 No. 04-cv-4020, 2007 U.S. Dist. Lexis 79450 *15-*17 (E.D. Pa. Oct. 26, 2007), which Sphera
 21 Fund relies upon, the court addressed the same challenge to a Lead Plaintiff movant. In the context
 22 of a motion for class certification, the Marsden court rejected this identical argument stating:

23 Defendants argue that Capital Invest, an Austrian company, should
 24 not be certified because a favorable judgment for Defendants in this
 25 suit would not have preclusive effect in Austria; thus, in their view,
 26 all Austrians, including Capital Invest, should not be considered
 27 members of the class. (citation omitted). Unlike the cases cited by
 28 Defendants in support of this theory, the claim in this case is based
 on alleged misrepresentations made in the U.S. by an American
 company whose shares traded on an American stock exchange (the
 NYSE). (citations omitted). ... Such a speculative argument is
 simply not sufficient to support the exclusion of Capital Invest or an
 unknown number of foreign investors, especially when they are

otherwise entitled to sue in U.S. courts. (citation omitted). Therefore we cannot find Capital Invest “inadequate” on this ground.

Id. at *15-*17. The court certified the class and appointed Capital Invest as the class representative. *Id.* at *31.

Likewise, this Court should reject the Sphera Fund’s argument and grant Gwyn Jones’ motion as Lead Plaintiff.

Dated: January 25, 2008

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By: /s/ Reed R. Kathrein
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Attorneys for Lead Plaintiff Movant Gwyn Jones, and
Proposed Co-Lead Counsel for the Class

CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2008 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses registered, as denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

/s/ Reed R. Kathrein
REED R. KATHREIN